

1 KELLER BENVENUTTI KIM LLP
2 Tobias S. Keller (#151445)
(tkeller@kbkllp.com)
3 Peter J. Benvenuti (#60566)
(pbenvenuti@kbkllp.com)
4 Jane Kim (#298192)
(jkim@kbkllp.com)
5 650 California Street, Suite 1900
San Francisco, CA 94108
6 Tel: 415 496 6723
Fax: 650 636 9251

7 *Attorneys for Debtors and Reorganized Debtors*

9
10 **UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

12 **In re:**
13 **PG&E CORPORATION,**

14 **- and -**

15 **PACIFIC GAS AND ELECTRIC
COMPANY,**

17 **Debtors.**

- 18 Affects PG&E Corporation
19 Affects Pacific Gas and Electric Company
20 Affects both Debtors

21 ** All papers shall be filed in the Lead Case, No.
22 19-30088 (DM).*

23 Bankruptcy Case No. 19-30088 (DM)

24 Chapter 11

25 (Lead Case) (Jointly Administered)

26 **REORGANIZED DEBTORS' NINETY-
SIXTH OMNIBUS OBJECTION TO CLAIMS
(CUSTOMER NO LIABILITY /
PASSTHROUGH CLAIMS)**

27 **Response Deadline:
July 14, 2021, 4:00 p.m. (PT)**

28 **Hearing Information If Timely Response Made:**

29 Date: July 28, 2021

30 Time: 10:00 a.m. (Pacific Time)

31 Place: (Telephonic Appearances Only)
32 United States Bankruptcy Court
33 Courtroom 17, 16th Floor
34 San Francisco, CA 94102

1 TO: (A) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY
2 JUDGE; (B) THE OFFICE OF THE UNITED STATES TRUSTEE; (C) THE AFFECTED
2 CLAIMANTS; AND (D) OTHER PARTIES ENTITLED TO NOTICE:

3 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as
4 debtors and reorganized debtors (collectively, “**PG&E**” or the “**Debtors**” or as reorganized pursuant to
5 the Plan (as defined below), the “**Reorganized Debtors**”) in the above-captioned chapter 11 cases (the
6 “**Chapter 11 Cases**”) hereby submit this Ninety-Sixth Omnibus Objection (the “**Objection**”) to the
7 Proofs of Claim (as defined below) identified in the column headed “Claim To Be Expunged” on
8 Exhibit 1 annexed hereto.

9 **I. JURISDICTION**

10 This Court has jurisdiction over this Objection under 28 U.S.C. §§ 157 and 1334; the *Order*
11 *Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.); and
12 Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern
13 District of California (the “**Bankruptcy Local Rules**”). This matter is a core proceeding pursuant to 28
14 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The
15 statutory predicates for the relief requested are section 502 of Title 11 of the United States Code (the
16 “**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (collectively, the
17 “**Bankruptcy Rules**”).

18 **II. BACKGROUND**

19 On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary
20 cases under chapter 11 of the Bankruptcy Code. Prior to the Effective Date (as defined below), the
21 Debtors continued to operate their businesses and manage their properties as debtors in possession
22 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner was appointed
23 in either of the Chapter 11 Cases. The Chapter 11 Cases are being jointly administered for procedural
24 purposes only pursuant to Bankruptcy Rule 1015(b).

25 Additional information regarding the circumstances leading to the commencement of the Chapter
26 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in the
27 *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief* [Docket
28 No. 263].

1 On July 1, 2019, the Court entered the *Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105(a),*
2 *Fed. R. Bankr. P. 2002, 3003(c)(3), 5005, and 9007, and L.B.R. 3003-1 (I) Establishing Deadline for*
3 *Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, and (III) Approving*
4 *Procedures for Providing Notice of Bar Date and Other Information to All Creditors and Potential*
5 *Creditors* [Docket No. 2806] (the “**Bar Date Order**”). The Bar Date Order set the deadline to file all
6 proofs of claim (each, a “**Proof of Claim**”) in respect of any prepetition claim (as defined in section
7 101(5) of the Bankruptcy Code), including all claims of Fire Claimants (as defined therein), Wildfire
8 Subrogation Claimants (as defined therein), Governmental Units (as defined in section 101(27) of the
9 Bankruptcy Code), and the Debtors’ customers (the “**Customers**”), and for the avoidance of doubt,
10 including all secured claims and priority claims, against either of the Debtors as October 21, 2019 at
11 5:00 p.m. Pacific Time (the “**Bar Date**”). The Bar Date later was extended solely with respect to unfiled,
12 non-governmental Fire Claimants to December 31, 2019 [Docket No. 4672]¹; and subsequently with
13 respect to certain claimants that purchased or acquired the Debtors’ publicly held debt and equity
14 securities and may have claims against the Debtors for rescission or damages to April 16, 2020 [Docket
15 No. 5943]. Pursuant to Paragraph 3(o) of the Bar Date Order, any Customer whose claim was limited
16 exclusively to ordinary and customary refunds, overpayments, billing credits, deposits, or similar billing
17 items was not required to file a Proof of Claim.

18 By Order dated June 20, 2020 [Dkt. No. 8053], the Bankruptcy Court confirmed the *Debtors’*
19 *and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June 19, 2020* (as may be
20 further modified, amended or supplemented from time to time, and together with any exhibits or
21 scheduled thereto, the “**Plan**”). The Effective Date of the Plan occurred on July 1, 2020 (the “**Effective**
22 **Date**”). See Dkt. No. 8252.

23 **III. RELIEF REQUESTED**

24 The Reorganized Debtors file this Objection, pursuant to section 502 of the Bankruptcy Code,
25 Bankruptcy Rule 3007(d)(6), Bankruptcy Local Rule 3007-1, and the *Order Approving (A) Procedures*
26 *for Filing Omnibus Objections to Claims and (B) the Form and Manner of the Notice of Omnibus*

27 ¹ The claims of Fire Claimants will be administered through the Fire Victim Trust and the claims of
28 Wildfire Subrogation Claimants through the Subrogation Wildfire Trust in accordance with the Plan.

1 *Objections*, dated June 30, 2020 [Docket No. 8228] (the “**Omnibus Objections Procedures Order**”),
2 seeking entry of an order expunging Proofs of Claim filed by certain Customers that will be resolved in
3 the ordinary course (the “**Customer No Liability / Passthrough Claims**”). The Customer No
4 Liability / Passthrough Claims are identified on **Exhibit 1**, in the columns headed “Claims To Be
5 Expunged.”

6 As the Court is aware, in connection with the Bar Date Order, the Debtors served specially
7 tailored and customized notices of the Bar Date (the “**Customer Bar Date Notice**”) together with Proof
8 of Claim forms on all of the Utility’s nearly 6.2 million customers. *See* Docket Nos. 2806 and 3159.
9 The simpler Customer Bar Date Notice made clear that Customers were not required to file Proofs of
10 Claim for ordinary and customary refunds, overpayments, billing credits, deposits, or similar billing
11 items. The Customer No Liability / Passthrough Claims listed on **Exhibit 1** arise from either
12 (1) Customer Security Deposits² or (2) Claims that arise from Customer Billing Disputes (here, “**Energy**
13 **Billings**”).

14 The Reorganized Debtors’ personnel conducted a rigorous review of their records to confirm that
15 the holders of the Customer No Liability / Passthrough Claims did not hold any valid non-ordinary course
16 prepetition Claims. First, the Reorganized Debtors and their advisors either established that all
17 Claimants were current or former Customers of the Utility or that the Claims sought amounts solely
18 arising from Customer Security Deposits or Energy Billings. Next, the Reorganized Debtors’ Customer
19 Fund Management and Customer Energy Solutions Program Operations Departments cross-checked
20 these Claims against records maintained with respect to non-energy billing issues and confirmed that
21 they did not correspond to known prepetition claims relating to these Customers. Third, the Reorganized
22

2 ² As defined in the *Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 507(a) and Fed. R. Bankr. P. 6003 and 6004 for Interim and Final Orders (I) Authorizing Debtors to (A) Maintain and Administer Customer Programs, Including Public Purpose Programs, and (B) Honor Any Prepetition Obligations Relating Thereto; and (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers* [Docket No. 16], “Security Deposits” are those Deposits required for certain customers to demonstrate sufficient creditworthiness prior to the Debtors providing gas and electric services. Security Deposits are credited to customer accounts or refunded directly to customers if (a) a Customer has no more than two past-due bills during the twelve-month period after commencing service and/or has not had service otherwise discontinued for non-payment during such twelve-month period; (b) a Customer voluntarily discontinues service; or (c) a Customer otherwise meets the Debtors’ criteria for creditworthiness and requests the return of a Security Deposit.

1 Debtors' Customer Relations Department cross-checked the Claims against complaints made to the
2 California Public Utilities Commission and excluded any claims where a formal complaint remained
3 unresolved. Finally, the Reorganized Debtors and their professionals checked Claimants' names against
4 parties with known litigation claims, Fire Victim Claims, and other property damage claims. Any
5 matches have been excluded and are not the subject of this Objection.

6 Accordingly, for the reasons set forth herein, the Customer No Liability / Passthrough Claims
7 should be expunged because, in accordance with the Bar Date Order, they will be resolved in the ordinary
8 course.

9 **IV. ARGUMENT**

10 **A. The Customer No Liability / Passthrough Claims Should Be
11 Expunged**

12 The Omnibus Objections Procedures Order supplemented Bankruptcy Rule 3007(d) to permit
13 the Reorganized Debtors to file objections to more than one claim if “[t]he claims seek recovery of
14 amounts for which the Debtors are not liable.” Omnibus Objections Procedures Order, ¶ 2(C)(iii). The
15 Reorganized Debtors and their professionals have reviewed each of the Customer No Liability /
16 Passthrough Claims identified on Exhibit 1 and have determined that each such Claim does not represent
17 a current right to payment because it will be resolved in the ordinary course.

18 If not expunged, the Customer No Liability / Passthrough Claims potentially could allow the
19 applicable Claimants to receive recoveries to which they are not entitled. Each of the Claimants is listed
20 alphabetically, and the claim number and amount are identified in accordance with Bankruptcy Rule
21 3007(e). Furthermore, in accordance with the Omnibus Objections Procedures Order, the Reorganized
22 Debtors have sent individualized notices to the holders of each of the Customer No Liability /
23 Passthrough Claims.

24 **B. The Claimants Bear the Burden of Proof**

25 A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C.
26 § 502(a).³ Section 502(b)(1) of the Bankruptcy Code, however, provides in relevant part that a claim

27 ³ Upon the Reorganized Debtors' request, the deadline under Section 7.1 of the Plan for the Reorganized
28 Debtors to bring objections to Claims initially was extended through and including June 26, 2021 (except
for Claims of the United States, which deadline was extended to March 31, 2021) [Docket No. 9563]. That
deadline has been further extended through December 23, 2021, except for Claims of the California

1 may not be allowed if “such claim is unenforceable against the debtor and property of the debtor, under
2 any agreement or applicable law.” 11 U.S.C. § 502(b)(1). Once the objector raises “facts tending to
3 defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves,”
4 *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991), quoting 3 L. King, *Collier on*
5 *Bankruptcy* § 502.02 at 502-22 (15th ed. 1991), then “the burden reverts to the claimant to prove the
6 validity of the claim by a preponderance of the evidence,” *Ashford v. Consolidated Pioneer Mortgage*
7 (*In re Consolidated Pioneer Mortgage*) 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re*
8 *Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff'd without opinion* 91 F.3d 151 (9th Cir.
9 1996). “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623 (quoting
10 King, *Collier on Bankruptcy*); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039
11 (9th Cir. 2000); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P 9th Cir. 1993); *In re Fidelity*
12 *Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

13 As set forth above, the Reorganized Debtors submit that the Customer No Liability / Passthrough
14 Claims will be resolved in the ordinary course and do not represent a current right to payment such that
15 they should be expunged in their entirety. If any Claimant believes that a Customer No Liability /
16 Passthrough Claim is valid or otherwise represents a current right to payment, it must present affirmative
17 evidence demonstrating the validity of that Claim.

18 **V. RESERVATION OF RIGHTS**

19 The Reorganized Debtors hereby reserve the right to object, as applicable, in the future to any of
20 the Proofs of Claim listed in this Objection on any ground, and to amend, modify, or supplement this
21 Objection to the extent an objection to a claim is not granted, and to file other objections to any proofs
22 of claims filed in these cases, including, without limitation, objections as to the amounts asserted therein,
23 or any other claims (filed or not) against the Debtors, regardless of whether such claims are subject to
24 this Objection. A separate notice and hearing will be scheduled for any such objections. Should the
25 grounds of objection specified herein be overruled, wholly or in part, the Reorganized Debtors reserve

26 Department of Forestry and Fire Protection, which deadline was extended to September 30, 2021,
27 without prejudice to the right of the Reorganized Debtors seek further extensions thereof [Docket
No. 10494]. The deadline with respect to Claims of the United States has been further extended by
stipulation and order [Docket Nos. 10459 and 10463].

1 the right to object to the Customer No Liability / Passthrough Claims on any other grounds that the
2 Reorganized Debtors may discover or deem appropriate.

3 **VI. NOTICE**

4 Notice of this Objection will be provided to (i) holders of the Customer No Liability / Passthrough
5 Claims; (ii) the Office of the U.S. Trustee for Region 17 (Attn: Andrew R. Vara, Esq. and Timothy
6 Laffredi, Esq.); (iii) all counsel and parties receiving electronic notice through the Court's electronic
7 case filing system; and (iv) those persons who have formally appeared in these Chapter 11 Cases and
8 requested service pursuant to Bankruptcy Rule 2002. The Reorganized Debtors respectfully submit that
9 no further notice is required. No previous request for the relief sought herein has been made by the
10 Reorganized Debtors to this or any other Court.

11 WHEREFORE the Reorganized Debtors respectfully request entry of an order granting (i) the
12 relief requested herein as a sound exercise of the Reorganized Debtors' business judgment and in the
13 best interests of their estates, creditors, shareholders, and all other parties' interests, and (ii) such other
14 and further relief as the Court may deem just and appropriate.

15
16 Dated: June 17, 2021

KELLER BENVENUTTI KIM LLP

17 By: /s/ Thomas B. Rupp
18 Thomas B. Rupp

19 *Attorneys for Debtors and Reorganized Debtors*